

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

CYNTHIA A. LOPEZ
Claimant

VS.

FRITO LAY, INC.
Respondent
Self Insured

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Docket No. 241,241

ORDER

Respondent appealed the April 12, 2001 Award entered by Administrative Law Judge Bryce D. Benedict. Oral argument was presented to the Appeals Board on October 2, 2001.

APPEARANCES

Claimant appeared by her attorney, George H. Pearson of Topeka, Kansas. Respondent appeared by its attorney, James C. Wright of Topeka, Kansas.

RECORD AND STIPULATIONS

The record and stipulations as set forth in the Award of the ALJ are adopted by the Appeals Board. Although the ALJ clearly considered the January 3, 2000 independent medical report by Dr. James H. Ransom, the record should be clarified to include that report. Also, during oral argument to the Appeals Board, the parties agreed that this claim should be treated as an accidental injury and not an occupational disease.

ISSUES

The ALJ granted claimant a 15 percent permanent partial disability based upon the functional impairment rating of Dr. Donald V. Belsito. Respondent contends compensation should be denied because claimant's injury did not arise out of her employment with respondent and timely notice was not given. Respondent further argues that the percentage of impairment is 0 percent as determined by Dr. Ransom or, in the alternative, that equal weight should be afforded both doctors' opinions which would result in a 7.5 percent permanent partial disability.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire record, the Appeals Board makes the following findings of fact and conclusions of law:

The Appeals Board finds the Award of the ALJ should be affirmed. The Appeals Board agrees with the ALJ's analysis of the evidence as set forth in the Award. In particular, the Board agrees that, in this instance, greater weight should be given to the opinion of Dr. Donald Belsito.

The Appeals Board further agrees with the findings of fact and conclusions of law that are set out in the Award. It is not necessary to repeat those findings and conclusions. Therefore, the Appeals Board adopts the ALJ's findings and conclusions as its own as if specifically set forth herein.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bryce D. Benedict dated April 12, 2001, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of October 2001.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: George H. Pearson, Attorney for Claimant
James C. Wright, Attorney for Respondent
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Workers Compensation Director